

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DOUGLAS HANDSHOE

PLAINTIFF

VS.

CIVIL ACTION NO. 1:15cv382HSO-JCG

VAUGHN PERRET, CHARLES LEARY &
DANIEL ABEL, D/B/A TROUT
POINT LODGE LTD OF NOVA SCOTIA
& IN THEIR INDIVIDUAL CAPACITIES
PROGRESS MEDIA GROUP LIMITED,
MARILYN SMULDERS, TORSTAR
CORPORATION, NATIONAL
GEOGRAPHIC SOCIETY, XYZ
FOUNDATION & JOHN DOES 1-50

DEFENDANTS

**RESPONSE IN OPPOSITION
TO PLAINTIFF'S MOTION FOR LEAVE TO
FILE AMENDED COMPLAINT**

COME NOW the Defendants Vaugh Perret and Charles Leary, who move the Court to strike Plaintiff's Motion for Leave to File Amended Complaint, filed herein as Document #82. As grounds for the same, the Defendants would first show that the motion is not in proper form as the proposed Third Amended Complaint is not attached to the Motion pursuant to Uniform Local Rule 15 which provides that the "proposed amended pleading **must** be an exhibit" to the motion for leave to file. Defendants would show that Mr. Handshoe's motion is likewise not compliant with L.U.C.R. 7(b)(2). Additionally, and alternatively, the Defendants would show that presently before the Court is their Motion to Dismiss. On December 1, 2016, Magistrate Judge John C. Gargiulo entered a Text Only Order staying all proceedings in this case consistent with the inherent powers of

the Court¹. The Defendants would show that Mr. Handshoe filed this motion contrary to the Stay Order.

WHEREFORE, PREMISES CONSIDERED, Defendants Vaughn Perret and Charles Leary pray that Document #82 and its supporting Memorandum filed as Document #83 would be struck from the record because it is not in proper format and was filed contrary to the prior Order of this Court staying all proceedings. The Defendants further request such relief as the Court may deem appropriate in the premises, including but not limited to appropriate sanctions.

RESPECTFULLY SUBMITTED this, the 22nd day of December, 2016.

VAUGHN PERRET, DEFENDANT and
CHARLES LEARY, DEFENDANT

BY: PURVIS & CO. PLLC

BY: /s/ Jason B. Purvis
Jason B. Purvis, MSB # 100873

OF COUNSEL:

PURVIS & CO. PLLC
14110 Airport Rd, Ste A
PO Box 2307
Gulfport MS 39505
Telephone: 228-206-7174
jpurvis@purviscolaw.com

¹ *Hood ex rel. Mississippi v. Microsoft Corp.*, 428 F.Supp. 2d 537, (S.D. Miss. 2006).

CERTIFICATE OF SERVICE

I, Jason B. Purvis, an attorney for **Defendants Vaughn Perret and Charles Leary** hereby certify that, on this day, I caused a true and correct copy of the above and foregoing to be filed utilizing the Court's CM/ECF electronic document filing system, which caused notice of such filing to be delivered to all counsel of record and parties requesting notice, and by United States First Class Mail, postage prepaid, to the following non-ECF participants having appeared in this action:

[none]

So certified on this, this the 22nd day of December, 2016.

/s/ Jason B. Purvis
Jason B. Purvis

PURVIS & CO. PLLC
14110 Airport Rd, Ste A
PO Box 2307
Gulfport MS 39505
Telephone: 228-206-7174
jpurvis@purviscolaw.com